

### **REMARKS**

Claims 1-13, 20, 22 and 74-77 are currently pending with claims 1, 9 and 20 being independent claims. Claims 1, 9 and 20 are hereby amended. Support for the claim amendments can be found in the specification on, for example, page 4, lines 18-20.

In view of the above amendment, Applicant believes the pending application is in condition for allowance. Applicant expressly reserves the right to pursue any subject matter canceled by this amendment in this or one or more continuing applications. No new matter has been added.

#### **Rejections under 35 U.S.C §112**

The Examiner has rejected claims 1-13, 20, 22 and 74-77 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner has argued that support is not found in the specification for defining R as an “organic or inorganic molecule” and has requested that the page and line number for such a recitation in the specification be pointed out.

Applicant respectfully traverses this rejection. The specification recites that “R is an organic or inorganic molecule” on page 2, lines 25 and 26. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-13, 20, 22 and 74-77 under 35 U.S.C §112, first paragraph.

The Examiner has rejected claims 1-13, 20, 22 and 74-77 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner has argued that the claims are confusing and unclear for the recitation that “R is an organic or inorganic molecule”.

Applicant respectfully traverses this rejection. Firstly, contrary to the Examiner’s assertion, the specification does define R as being an organic or inorganic molecule. Secondly, a term is considered definite if one of ordinary skill in the art would know the metes and bounds of the claims reciting said term. In light of the teachings of the specification and the high level of knowledge in the art, one of ordinary skill in the art would appreciate that R can be any organic or inorganic molecule such that its presence in the reactive moiety allows the reactive moiety to

be used in a compound having the structure of Formula 1, such compound being able to bind to proteinaceous material. Therefore, one of ordinary skill in the art would easily recognize what compounds of Formula 1 are included in the scope of the rejected claims, and the recitation of “R” is sufficiently clear.

The Examiner has also argued that claims 8 and 76 are confusing by allegedly not having clear antecedent basis in the claims from which they depend for “dihydroxyacetone”. Applicant respectfully traverses this rejection. The first reactive moiety specifically listed in claims 1 and 9, from which claims 8 and 76 depend, is a general formula that includes within its scope dihydroxyacetone.

Accordingly Applicant respectfully requests that the rejection of claims 1-13, 20, 22 and 74-77 be withdrawn.

#### Rejections under 35 U.S.C §102

The Examiner has rejected claims 1, 2, 5-7, 9-11, 20, 74, 75 and 77 for allegedly being anticipated under 35 U.S.C. §102(e) by or, in the alternative, obvious under 35 U.S.C. §103(a) over Green et al. (6,267,957).

Without conceding the correctness of the Examiner’s position, Applicant has amended claims 1, 9 and 20 providing the limitation that the reactive moiety can bind proteinaceous material. The teaching referred to by the Examiner of Green et al. provide disuccinimidyl suberate or bis(sulfosuccinimidyl) suberate for cross linking an agent to a linking molecule of Green et al. If such a teaching is followed, a conjugate would result wherein the disuccinimidyl suberate or bis(sulfosuccinimidyl) suberate used to create the conjugate would not only no longer be in the same form but also could no longer be used to covalently attach to proteinaceous material. This is not an explicit teaching of the compounds of the rejected claims nor is it a teaching that would make obvious such compounds.

Further, even if *arguendo* the compounds of the rejected claims were provided by Green et al., there is no teaching or suggestion that such compounds be combined with a pharmaceutically acceptable carrier or used as provided in the methods of the rejected claims. The Green et al. compounds that can be combined with a pharmaceutically acceptable carrier or used in methods for attaching agents to tissue are conjugates of a linking molecule (e.g.,

polylysine or polyglutamine) and an agent, and not the compounds as provided in the rejected claims.

Accordingly Applicant respectfully requests that the rejection of claims 1, 2, 5-7, 9-11, 20, 74, 75 and 77 for allegedly being anticipated under 35 U.S.C. §102(e) or, in the alternative, obvious under 35 U.S.C. §103(a) be withdrawn.

#### Rejections Under 35 U.S.C. §103

The Examiner has also rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Green et al. for the alleged disclosure of a kit; claims 3, 4, 12 and 13 over Green et al. in view of Cheng et al. (U.S. Patent No. 6,080,566) for the alleged teaching of OPAA anhydrolase and OPA anhydrase; and claims 8 and 76 over Green et al. in view of Fusaro (U.S. Patent No. 3,920,808) for the alleged teaching of dihydroxyacetone.

Applicant respectfully traverses all of the respective rejections of the above-recited claims for obviousness. In light of the amendment and arguments presented above, Applicant believes these rejections are now moot. In addition, for each of these rejections, the Examiner has failed to explain why one of ordinary skill in the art would be motivated to modify the teachings of Green et al. alone or combine the teachings of Green et al. with the other cited references. Furthermore, the Examiner has also not demonstrated why one of ordinary skill in the art would have the expectation of success in obtaining the compounds of the rejected claims based on Green et al. alone or in combination with the other cited references.

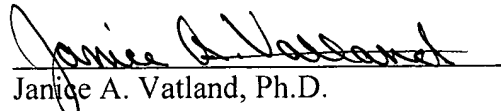
Accordingly, withdrawal of this rejection is respectfully requested.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,



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